

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11 FRESH PRESS, LLC,

12 Plaintiff,

13 vs.

14 iTASTE CO., LTD., a/k/a iTaste Co., Ltd.
Shanghai, China and Shanghai iTaste
15 Electronics Technology Co., Ltd., d/b/a Juisir;
FROOTHIE USA LLC, a Delaware limited
liability company; and
16 XIUXING “LEO” CHEN, an individual,

17 Defendants.

18 CASE NO. 5:17-cv-01921-BLF

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**Patent Local Rule 4-3 Joint Claim
Construction and Prehearing Statement**

1 Pursuant to Patent Local Rule 4-3, Plaintiff Fresh Press, LLC (“Fresh Press”) and Defendants
 2 iTaste Co., Ltd, Froothie USA LLC, and Xiuxing Leo Chen (collectively, “Defendants”) hereby
 3 submit this Joint Claim Construction and Prehearing Statement regarding claim construction for U.S.
 4 Patent No. 9,493,298 (the “’298 Patent”).

5 **Patent Local Rule 4-3(a): Agreed Construction**

6 The parties agree that, save for “juicer cartridge,” the terms of claim 3 of the ’298 Patent need
 7 not be construed.

8 **Patent Local Rule 4-3(b): Proposed Constructions**

9 **“juicer cartridge”**

10 **Plaintiff’s Position:** The words “juicer cartridge” have a plain and ordinary meaning and
 11 need not be construed. Alternatively, if the Court believes a construction is necessary, a “juicer
 12 cartridge” should be construed as “a container or pouch used in a juicer.” *See, e.g.*, U.S. Patent No.
 13 9,493,298 (“’298 patent”), col. 22 ll. 10-11, 18-29; col. 7 ll. 14-18, 59-63; col. 27 ll. 37-40, claims 1, 3
 14 *See, e.g.*, Cambridge English Dictionary, <http://dictionary.cambridge.org/us/dictionary/english/cartridge> (“cartridge” - “a container that is used in a larger piece of equipment, and which
 15 can be replaced with another similar part.”)

16 **Defendants’ Position:** Defendants propose that the term “juicer cartridge” be construed as “a
 17 container of food matter that is designed to be inserted in a larger mechanism.”

18 **Intrinsic Evidence:** ’298 patent at Abstract; Figs. 1, 2, 3A, 5, 6A-B, 7A-C, 8A-D, 10A-C, 11AF, 12,
 19 13A, 13C, 14; 1:45-48; 1:56-59; 1:65-2:6; 2:11-13; 2:20-26; 2:29-42; 2:44-46; 2:61-64; 3:6-9; 3:18-
 20 21; 3:29- 34; 3:45-46; 3:51- 53; 3:60-63; 4:4-5; 4:11-15; 6:19-24; 6:66-67; 7:5-9; 7:30- 32; 8:22-24;
 21 8:46- 65; 9:62-64; 10:4- 21; 10:28-30; 12:44- 53; 12:61-67; 13:16- 19; 13:37-39; 15:26- 29; 18:59-61;
 22 18:63- 65; 19:6-16; 19:26- 27; 20:14-31; 21:56- 66; 22:21-25; 22:35- 41; 22:50-54; 23:22- 24; 24:11-
 23 15; 25:24- 32; 25:33-26; 25:64- 26:35; 27:21-23; 28:22-26; 31:43-55; 32:13-41; 33:46-47.

24 **Extrinsic Evidence:**

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- 26 • 2012 American Heritage Dictionary, 5th ed. defines “cartridge” as: “A small modular unit
 27 that is designed to be inserted into a larger piece of equipment”
- 28 • 2012 Merriam-Webster Collegiate Dictionary, 11th ed. defines “cartridge” as: “a case or
 container that holds a substance, device, or material which is difficult, troublesome, or

awkward to handle and that usu. can be easily changed . . . an often cylindrical container for insertion into a larger mechanism or apparatus”

- 2010 Pocket Oxford American Dictionary and Thesaurus, 3d ed. defines “cartridge” as: “a container holding film, ink, etc. designed to be inserted into a mechanism such as a camera or a printer”
- 2008 Webster’s New College Dictionary, 3d ed. defines “cartridge” as: “A small modular unit of equipment designed to be inserted into a larger piece of equipment”
- Cambridge English Dictionary (*available at* <https://dictionary.cambridge.org/us/dictionary/english/cartridge>) defines “cartridge” as: “a container that is used in a larger piece of equipment, and which can be replaced with another similar part”
- Oxford Living Dictionaries (*available at* <https://en.oxforddictionaries.com/definition/cartridge>) defines “cartridge” as: “A container holding a spool of photographic film, a quantity of ink, etc., designed for insertion into a mechanism.”

Patent Local Rule 4-3(c): Most Significant Terms

Plaintiff's Position: It is unclear why Defendants believe a construction of "juicer cartridge" is necessary, much less dispositive.

Defendants' Position: Under Patent L.R. 4-3(c), Defendants identify “juicer cartridge” as the term whose construction is most significant to the resolution of the case as potentially case dispositive.

Patent Local Rule 4-3(d): Anticipated Length of Time for a Hearing

Plaintiff's Position: A claim construction hearing should not be necessary. If necessary, one hour should be sufficient.

Defendants' Position: Defendants anticipate the length of time for the claim construction hearing to be one hour.

Patent Local Rule 4-3(e): Identification of Hearing Witnesses

The parties do not intend to rely on witnesses at the claim construction hearing, but respectfully reserve the right to do so.

Patent Local Rule 4-3(f): Identification of Factual Findings

The parties are not seeking any factual findings related to claim construction, but respectfully reserve the right to do so.

DATED: March 30, 2018

By/s/ *Kevin P.B. Johnson*

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Attorneys for Defendants

1 **ATTESTATION**

2 In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this
3 document has been obtained from any other signatory to this document.

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5 By: /s/ Kevin P.B. Johnson
6 Kevin P.B. Johnson

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